

UNIVERSITY OF SWAZILAND

101

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION, MAY 2011

TITLE OF PAPER: CONSTITUTIONAL LAW

COURSE CODE: L103

TIME ALLOWED: THREE HOURS

INSTRUCTIONS: 1) ANSWER FOUR (4) QUESTIONS

2) ALL QUESTIONS CARRY EQUAL MARKS

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**QUESTION 1.**

During the debate of the Ministry of Justice's performance report in the House of Assembly in March, 2011, one Member of Parliament (MP) referred to the country's judiciary as "nonsense" as he highlighted some of its shortcomings. Later in the day the Minister for Justice was interviewed by Swazi TV and his views were sought about the Honourable MP's comments about the Judiciary. The Minister's view was that such language coming from a MP was un-parliamentary as it did not accord the Judiciary the respect and dignity that it should have. When confronted by the print media about the Minister's comments, the MP stated that "dictatorial tendencies have no place in Parliament and I stand by every submission regarding the Ministry of Justice..." As a constitutional law expert you are approached by the Chief Justice who wants to know what, if anything can be done to "restore the dignity" of the judiciary that the MP's comments put in jeopardy. Advise the office of the Chief Justice and cite relevant authorities where appropriate.

(25 Marks)

**QUESTION 2.**

At Independence, Swaziland was bequeathed a Westminster export model of constitutionalism which had all the trappings of a Parliamentary system and more. In 1973, Swaziland jettisoned the Independence constitution in place of a home-grown constitution that ensured greater protection of human rights and a vibrant rule of law for the Swazi population. This resulted in a buoyant if vibrant democratic system that is the envy of the world. Do you agree? Give reasons for your answer citing relevant authorities.

(25 Marks)

QUESTION 3.

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The electoral system in Swaziland has undergone extensive metamorphosis since its advent in 1978. Discuss how the electoral system has evolved since inception to the present. In what way is the system in need of reform if at all?

(25 Marks)

QUESTION 4.

The Kingdom of Swaziland jealously guards and adheres to the doctrine of separation of powers to the consternation of Critics of the *Tinkhundla* system of government who argue that the doctrine of separation of powers is anathema to the *Tinkhundla* system of government. Do you agree? Give reasons for your answer.

(25 Marks)

QUESTION 5.

Constitutionalism is synonymous with the concept of the Rule of law save for the fact that the latter is an older concept than the former. Discuss the similarities and dissimilarities of both concepts making specific reference to the points where the two concepts converge.

(25 Marks)